



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

ELP  
Docket No. 503-00  
27 April 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 26 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Navy on 11 February 1983 for four years as an SK1 (E-6). At the time of your reenlistment, you had completed nearly 11 years of prior active service. The record reflects that you subsequently extended your enlistment twice for a total of 48 months.

The record further reflects that you served without incident until 22 September 1989 when you received nonjudicial punishment (NJP) for a five-hour period of unauthorized absence (UA). You received a second NJP on 14 December 1990 for wrongful appropriation of a government vehicle, for which you were reduced in rate to SK2 (E-5).

On 15 March 1991 you were convicted by special court-martial of conspiracy to commit larceny of government property and two specifications of larceny of government property. You were

sentenced to confinement at hard labor for 89 days, a fine of \$519, forfeitures of \$600 per month for three months, reduction in rate to SKSN (E-3), and a bad conduct discharge. You were released from confinement and returned to duty on 28 May 1991. The convening authority approved the sentence but suspended the bad conduct discharge for a period of 12 months. However, your enlistment as extended had already expired and you were honorably discharged on 16 July 1991.

In its review of your application, the Board conducted a careful search of your records for any mitigating factors which might warrant changing your reenlistment code. However, other than your prior honorable service, no justification for such a change could be found. The Board noted your contentions to the effect that you were advised by legal personnel that if you were discharged you could reenlist later, and that the other individual involved in the offenses was permitted to retire.

The Board also noted that at the time of your release from confinement your enlistment, as extended, had already expired and you were on legal hold. Further extension was not authorized since you had already extended your enlistment to the maximum number of months authorized. The fact that the convening authority had suspended the bad conduct discharge did not require the command to reenlist you or recommend reenlistment so you could obtain sufficient service for retirement. It appeared to the Board that the Chief of Naval Personnel would have disapproved any reenlistment request given your conviction of offenses involving moral turpitude. Your contentions are neither supported by the evidence of record nor by any evidence submitted in support of your application. The Board believed that you were extremely fortunate that the convening authority suspended the bad conduct discharge, thereby allowing you to be honorably discharged. The Board also believed that two NJPs and a special court-martial conviction provided sufficient justification to warrant a non-recommendation for retention and assignment of an RE-4 reenlistment code. The Board thus concluded that the reenlistment code was proper and no change is warranted. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records.

Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director